

REMARKS

As a preliminary matter, Applicants thank the Examiner and his supervisor for their time and courtesy during a personal interview on December 1, 2009, the substance of which is hereby incorporated by reference.

Claims 1 and 3-30 are currently under examination.

In the Final Office Action, the Examiner rejected claims 1 and 3-30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,099,320 to Papadopoulos ("*Papadopoulos*"), in view of U.S. Patent Application Publication No. 2005/0192954 to Gupta et al. ("*Gupta*"), U.S. Patent Application Publication No. 2002/0173999 to Griffor et al. ("*Griffor*"), U.S. Patent Application Publication No. 2002/0064766 to Cozens et al. ("*Cozens*"), and U.S. Patent Application Publication No. 2002/0143599 to Nourbakhsh et al. ("*Nourbakhsh*").

Applicants respectfully traverse the Examiner's rejections and request reconsideration of the application and withdrawal of the rejections of pending claims 1 and 3-30.

I. Section 103 Rejections

Applicants respectfully traverse the Section 103(a) rejection of claims 1 and 3-30 because *Papadopoulos*, *Gupta*, *Griffor*, *Cozens*, and *Nourbakhsh*, taken alone or in combination, fail to disclose or suggest every claim element in these claims. Applicants respectfully submit that the Final Office Action failed to provide rationales to support a conclusion of obviousness in this case because the Final Office Action did not properly ascertain the scope and content of the cited prior art, and because there are significant differences between the

teachings of the cited prior art references and the claims, as a whole. M.P.E.P. § 2141 (II, III), (“The gap between the prior art and the claimed invention may not be ‘so great as to render the [claim] nonobvious to one reasonably skilled in the art.’”) (internal citations omitted).

Claim 1 is directed to a computer network that includes, among other things, “a content development platform . . . adapted to record performance metrics during authoring of instructional materials and generation of electronic learning content by course authors.” As admitted in the Final Office Action by the Examiner, *Papadopoulos* fails to teach the above-listed feature. (FOA, p. 5, ¶ 8). In addition, the Final Office Action did not allege, nor do *Griffor*, *Cozens*, and/or *Nourbakhsh* teach, the above-listed feature. That leaves the *Gupta* reference, which the Final Office Action relies on for its alleged disclosure of “a system that record[s] performance metrics.” (Id.).

Claim 1, however, recites more than merely recording performance metrics, and thus the Final Office Action improperly ignores several claim elements. Specifically, the Final Office Action ignores that claim 1 recites recording performance metrics “during authoring of instructional materials and generation of electronic learning content by course authors.” Moreover, the Final Office Action apparently concedes that *Gupta* does not teach the above-listed feature. Specifically, Applicants and the Examiner apparently agree as to when the recording is performed in the *Gupta* system, i.e., during the delivery of content. As detailed in Applicants’ previous responses, *Gupta* teaches recording performance metrics during delivery of content. In discussing delivery of

adaptive content, *Gupta* states that “[v]arious performance metrics are recorded during user interaction.” (*Gupta* ¶ 18). Consistent with Applicants’ position, the Final Office Action recognizes that “*Gupta* teaches a delivery system capable of recording performance metrics,” (FOA, p. 4, ¶ 6) (emphasis supplied), and not a “content development platform . . . adopted to record performance metrics during authoring of instructional materials and generation of electronic learning content by course authors,” as recited in claim 1.

In fact, in addressing Applicants’ remarks set forth in response to the Office Action of May 27, 2009, the Examiner clarifies that “*Gupta* was not relied upon for the teaching of a content development platform adapted to record performance metrics during authoring of instructional materials and generation of electronic learning content by course authors.” (FOA, p. 9, ¶ 21). Thus, the Final Office Action fails to provide any reference or reasoning, and fails to supply a complete rationale to support a conclusion of obviousness with respect to the subject matter, as a whole, of claim 1.

Applicants respectfully submit that because *Papadopoulos*, *Gupta*, *Griffor*, *Cozens*, and *Nourbakhsh* all fail to disclose or suggest all the recited claim features as the Final Office Action alleged, the Final Office Action did not properly ascertain the scope and content of the alleged prior art and the combination of those references cannot result in the invention of claim 1. Moreover, the undisclosed features represent significant differences between the teachings of the alleged prior art references and claim 1, as a whole, which render claim 1 nonobvious. For at least these reasons, independent claim 1 and

claims 3-14, that depend therefrom, are in condition for allowance. Claims 3-14 are also allowable because they recite additional features not taught nor suggested by the cited art.

Independent claim 15, while having a scope different than claim 1, includes similar recitations to claim 1. Therefore, for at least the same reasons as set forth with respect to claim 1, claim 15, and claims 16-30 that depend therefrom, are also in condition for allowance. Dependent claims 16-30 are also allowable because they recite additional features not taught nor suggested by the cited art.

For at least the foregoing reasons, Applicants respectfully request that the Examiner withdraw the rejection of claims 1 and 3-30 under 35 U.S.C. § 103(a).

CONCLUSION

The Final Office Action makes statements characterizing the claims and the references. Applicants do not subscribe to any such characterizations, whether they are expressly mentioned in this response, or not.

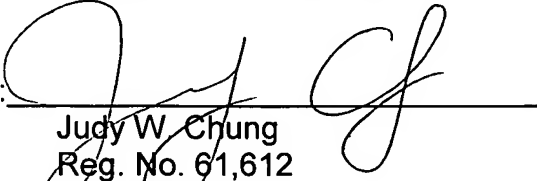
In view of the foregoing remarks, Applicants submit that currently pending claims 1 and 3-30, are not rendered obvious in view of the prior art references cited against this application. Applicants therefore request the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and
charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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